


Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

2014 NOV 13 PM 4:21

AMHERST TOWN CLERK

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2015-00005, to formalize an existing dwelling unit in a detached accessory structure as a Converted Dwelling, for a total of three units, under Section 3.3241 of the Zoning Bylaw, at 427 Belchertown Road (Map 18A, Parcel 28, R-N/PURD Zoning District), subject to the following conditions:

1. Any work required for the unit to comply with the Building Code shall be completed no later than November 1, 2014.
2. The floor plan for the barn unit shall be constructed and used in accordance with the plan approved on August 14, 2014. Any applicable conditions of ZBA FY1982-60 for the two family dwelling shall remain in force.
3. Tenant parking shall be substantially in accordance with the parking plan, approved on August 14, 2014.
4. All exterior lighting be designed or arranged to be downcast.
5. There shall be an approved Management Plan in place at all times associated with the use of the property as an owner occupied Converted Dwelling.
 - a. For this owner, the property shall be managed in accordance with the Management Plan approved on August 14, 2014.
 - b. Upon a change of ownership of the property, where the owner resides on the premises and seeks to rent the barn unit, the new owner shall submit a new Management Plan to the Board for review and approval at a public meeting.
6. This permit shall expire in the event that the property is no longer owner occupied.

Mark Parent 
Mark Parent, Acting Chair
Amherst Zoning Board of Appeals

11/13/14
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Lynne Chase & James Maloney, 427 Belchertown Road, Amherst, MA 01002

Date application filed with the Town Clerk: August 1, 2014

Nature of request: For a Special Permit to formalize an existing third unit in a detached accessory structure as a Converted Dwelling, under Section 3.3241 of the Zoning Bylaw

Address: 427 Belchertown Road (Map 18A, Parcel 28, R-N/PURD Zoning District)

Legal notice: Published on July 30, 2014 and August 6, 2014 in the Daily Hampshire Gazette and sent to abutters on July 30, 2014

Board members: Mark Parent, Carolyn Holstein, Pari Riahi

Staff members: Jeff Bagg, Senior Planner, Rob Morra, Building Commissioner

Submissions:

- Application form filed with the Town Clerk on August 1, 2014
- Existing condition photographs (x15)
- Second floor plan, dated July 14, 2014
- Ground floor plan, dated June 25, 2014
- Third floor plan, dated June 25, 2014
- Management Plan
- Parking Plan (Town GIS)
- ZBA FY1979-13 to establish a home occupation
- ZBA FY1982-60 to create a two family dwelling
- ZBA FY1985-69 to establish a home occupation
- Rental Permit email, dated April 16, 2014

Site Visit: August 11, 2014

Ms. Holstein and Ms. Riahi viewed the property located on the east side of Belchertown Road, and the following:

- The property containing an existing two family dwelling and a large barn at the rear. The two family dwelling and barn are connected by a second story, uncovered walkway.
- The exterior of the barn in which a portion will be converted to a dwelling unit; parking in front of and along the north side of the barn; existing rear entry way; proposed location of new second means of egress on the north side.
- The exterior of the existing two family dwelling and location of parking for same on south side of the driveway and between the house and barn.

Public Hearing: August 14, 2014

In connection with the Town's Rental Permit program, the applicants, Lynne Chase and James Maloney, are seeking a Special Permit to formalize a third unit on the property that was created without the necessary building permits or zoning approval.

The Board discussed the proposed unit. The applicant stated that the unit existed when they purchased the property in 1984 and that it has been rented since then. The unit is on the second floor of the barn and consists of three bedrooms, kitchen, dining room, living room, and one bathroom. The primary entrance to the unit is from the rear (west) side of the barn. A second means of egress exits into the middle of the lower level of the barn. As a result of an inspection of the property by the Town's Code Enforcement Officer, a new handrail and other safety requirements were added to the interior egress of the barn in order to provide a temporary safe egress while this process was underway. A more formal second means of egress is shown on the submitted floor plans which will exit directly to the outside. It was identified that additional fire separation between the dwelling unit, the upper offices, and the remaining barn would be required.

The Board discussed the interior of the barn. The upper floor is occupied by offices for the owner and that those areas are accessed only by the elevated walkway from the two family dwelling. The second, mid-floor of the barn contains the dwelling unit and the rented space. The interior of the lower level of the barn is used for storage. The barn also contains a one level section to the north that was used as a workshop.

The Board discussed the total number of units on the property. The applicant stated that there are two units in the main house, one of which is their owner occupied unit. The Board noted several previous Special Permits were granted for the property but noted that none mentioned the dwelling unit in the barn:

- **ZBA FY1979-13** - Authorized the previous owner to use of a portion of the residence at 427 Belchertown Road as a photographic studio. The decision identifies that the studio would be in a portion of the house and parking in front of the barn.
- **ZBA FY1982-60** – Authorized the previous owner to convert a one family dwelling to a multiple dwelling. The project involved converting the second floor of the studio space into an apartment. The decision identifies that the lot area required for creating two units is met.
- **ZBA FY1985-69** – Authorized the use of the barn as two separate home occupation businesses. The decision identifies the use of the barn and the use of the house, but does not mention a third dwelling unit. It also notes that the Board did a site visit for this application.

The Board discussed parking in terms of the submitted parking plan, which depicted a total of 11 exterior parking spaces and one garage space. The applicant identified that there are four parking spaces for the rented unit in the house (Apartment A). Two of those spaces are in the paved parking area along the south side of the driveway and two spaces in front of the barn. The plan shows three exterior spaces and one garage space for the owner. Four parking spaces exist on the south side of the barn with two for tenants and two parking spaces for guests.

The Board discussed the fact that there are several commercial vehicles parked on the property. It was determined that these vehicles appeared to be part of a business operation that would require a Special Permit under either Section 5.015 (Garaging or Parking of Motor Vehicles) or Section 5.013 (Home Occupation) of the Zoning Bylaw.

The Board discussed the location of the trash storage. After discussion, the Board determined that the trash receptacles should be stored under the connector walkway between the two buildings and be out of sight from the road.

The Board made the following findings under Section 3.3241:

- 1. An existing residence, a structure attached to an existing residence, or a detached structure, may be converted into a dwelling unit or units provided all other zoning requirements which would apply to converted dwellings are met.* This proposal is to formalize the conversion of an existing detached structure into a dwelling unit.
- 2. A conversion of a structure shall not exceed the total number of dwelling units allowed on the lot. The total number of dwelling units shall not exceed 4 in the R-N, R-O, and R-LD districts and shall not exceed 6 in the R-VC, R-G, B-G, B-L and B-VC districts. Conversion in the Aquifer Recharge Protection (ARP) or Watershed Protection (WP) overlay districts shall not be permitted.* The property is within the R-N (Neighborhood Residence District) with a PURD overlay (which is not applicable in this case). As per the Town's GIS information, the property contains 45,223 square feet. Pursuant to Table 3 of the Zoning Bylaw, the minimum lot size required in this district is 20,000 square feet with 6,000 square feet of additional lot area required for an additional unit. ZBA FY1982-60 authorized the conversion of the main house from one to two units. At that time, the Bylaw required only 4,000 square feet of additional area. Therefore, the two units in the main house require 24,000 square feet and the additional unit in the barn requires 6,000 square feet for a total minimum of 30,000 square feet. Based on the size of the parcel, this criterion is met.
- 4. There shall be no significant change in the exterior of the building, except that the Zoning Board of Appeals may authorize modification or alteration of a building if such modification or alteration does not substantially change the building's character or its effect on the neighborhood or on property in the vicinity. Demolition of the existing structure proposed for conversion shall not be permitted.* As proposed, the only exterior change to the existing barn is the addition of a new egress door on the east side (rear) of the barn. The submitted photographs show the approximate location of the proposed new door. The Board found that this will not be a significant change to the exterior of the building nor change the buildings character.
- 5. Except as hereinafter provided, no converted dwelling use shall involve the demolition and removal of an existing structure proposed for conversion shall not be permitted.* The proposal does not involve any demolition or removal of any existing structure.
- 6. The proposed conversion shall be suitably located in the neighborhood in which it is proposed, as deemed appropriate by the Special Permit Granting Authority. The conversion, if in a residential district, shall either: a) be located in an area that is close to heavily traveled streets, close to business, commercial and educational districts, or already developed for multi-family use, and shall require owner occupancy or a Resident Manager (see definition) in one of the units; or b) be from one to two units, one of which shall be and shall remain owner-occupied, which shall be made a condition of any Special Permit issued in such an instance.* The Board finds that the property is owner occupied and that this provides proper management of the use and is therefore suitably located.
- 7. The dwelling units shall be connected to the public sewer. However, the Zoning Board of Appeals may authorize, with the approval of the Board of Health, the conversion of a structure to allow an increase from one dwelling unit to two dwelling units on a lot serviced by a septic system.* The property is connected to Town sewer and water.
- 10. A management plan as defined in the Rules and Regulations adopted by the Zoning Board of Appeals, shall be included as an integral part of any application.* A Management Plan has been submitted. The Board finds that the Management Plan submitted is adequate for the use of the property with two rental units.

11. A landscape plan appropriate for the project shall be included in the application. The Board finds that the existing landscaping is acceptable for the proposal.

12. Converted dwellings in the R-O and the R-LD districts shall provide a minimum of 2,000 sq. ft. of usable open space per dwelling unit for the use of occupants. Converted dwellings in the R-N district shall provide a minimum of 1,000 sq. ft. of usable open space per dwelling unit. The Board finds that the tenants have access to the large yard area adjacent to Belchertown Road.

Specific Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District. The proposal formalizes the existing barn unit and permits two rental units with an owner occupant. The use as three units is compatible with other uses in the neighborhood, which includes the 204 unit Rolling Green apartments across the street and mixed use building at the intersection of Belchertown Road and Gatehouse Road. The Board noted the location of the property in the R-N PURD overlay district and its location adjacent to the south a parcel containing commercial uses which is in the Professional Research Park Zoning District.

10.382, 10.383 & 10.385 - The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features. The Board finds that the only exterior change required to formalize the unit is a new egress door located at the rear of the barn. The owner occupancy of the property provides active management of the property to prevent nuisances associated with the rental units.

10.384 and 10.389 - Adequate and appropriate facilities would be provided for the proper operation of the proposed use; The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water. The unit in the barn will be upgraded to meet all applicable Building Code requirements including, but not limited to, required egress and fire separation from the offices in the upper floor of the barn.

10.386 - The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw. The Board made the following findings relative to Article 7:

7.0000 - Two (2) parking spaces for each dwelling unit. As shown on the submitted parking plan, the proposal provides more than the required number spaces, with a total of 11 exterior parking spaces available and one garage space.

7.0001 - Parking spaces for cars or similar vehicles shall be on a paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.101); 7.101- Paving: For the purposes of this bylaw, a paved parking surface shall be considered to be one which has a prepared subgrade and compacted gravel base with a minimum total 12 inch depth, appropriate grading and drainage, and which is surfaced with a minimum 2 inch top coat of concrete, asphalt, masonry pavers, oil and stone, gravel, trap rock, or similar material, as approved or modified by the Town Engineer. To the extent feasible, permeable or porous paving shall be employed in new construction or site renovations or improvements.

The finds that the condition of the existing driveway and parking area satisfy the requirements of this Section but will require continued maintenance.

7.104 - Dimensions, Marking & Delineation - Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage; Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas; In all parking areas of five (5) or more parking spaces, individual spaces shall be painted, marked or otherwise delineated in a manner sufficient to visibly identify said spaces. The Board determined that the owner occupant will actively manage parking to be in accordance with the approved parking plan. No additional delineation or signs are required and the spaces are sufficient in terms of size.

7.105 - Lighting: adequate lighting shall be provided for all parking areas of 5 spaces or more if these areas are to be used at night. All exterior site lighting associated with parking areas shall be downcast and shall be directed or shielded to eliminate light trespass onto any street or abutting property and to eliminate direct or reflected glare perceptible to persons on any street or abutting property and sufficient to reduce a viewer's ability to see. The Board finds that the existing lighting on the two family dwelling and barn is sufficient to meet this criterion.

10.393 - The proposal provides protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and exterior lighting, through use of cut-off luminaires, light shields, lowered height of light poles, screening, or similar solutions. A condition of the permit requires that all exterior lighting be designed or arranged to be downcast.

10.398- The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. The proposal provides for a more accurate depiction of the existing conditions on this property, including upgrading of the third unit to current safety requirements, which is an important goal of the Town relative to the Rental Permit program.

Zoning Board Decision

Mr. Parent MOVED to approve the application with conditions. Ms. Holstein seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2015-00005, to formalize an existing dwelling unit in a detached accessory structure as a Converted Dwelling, under Section 33.3241 of the Zoning Bylaw, at 427 Belchertown Road (Map 18A, Parcel 28, R-N/PURD Zoning District), with conditions.

Mark Parent 
MARK PARENT


CAROLYN HOLSTEIN

Pari Riahi 
PARI RIAHI

FILED THIS 13th day of November, 2014 at 4:20 p.m.
in the office of the Amherst Town Clerk Susan Audette, Asst.
TWENTY-DAY APPEAL period expires, December 3, 2014.
NOTICE OF DECISION mailed this 14th day of November, 2014
to the attached list of addresses by Jeffrey R. Bryn, for the Board.
COPY OF NO APPEAL issued this _____ day of _____, 2014.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2014,
in the Hampshire County Registry of Deeds.

BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED

Petition of Fletcher Clark & Mattea Kramer

For A Special Permit to formalize an existing dwelling unit in a detached accessory structure as a Converted Dwelling, for a total of three units, under Section 3.3241 of the Zoning Bylaw

On the premises of 427 Belchertown Road
At or on Map 18A, Parcel 28, R-N/PURD Zoning District

NOTICE of hearing as follows mailed (date) July 30, 2014
to attached list of addresses and published in the Daily Hampshire Gazette
dated July 30, 2014 and August 6, 2014

Hearing date and place August 14, 2014 (Town Hall)

AGENDA ZONING BOARD OF APPEALS Public Hearings/Public Meetings
The Amherst Zoning Board of Appeals will meet on Thursday, August 14, 2014, at 6:30 P.M. in the Town Room, Town Hall, to conduct the following business:
PUBLIC HEARING: ZBA FY2015-00005 - Lynne Chase & James Maloney - For a Special Permit to formalize an existing third unit in a detached accessory structure, as Converted Dwelling, under Section 3.3241 of the Zoning Bylaw, at 427 Belchertown Road (Map 18A, Parcel 28, R-N Zoning District) ZBA FY2015-00006 - Lynne Chase & James Maloney - For a Special Permit to formalize an existing third unit in an existing dwelling, as Converted Dwelling, under Section 3.3241 of the Zoning Bylaw, at 985 Bay Road (Map 30A, Parcel 7, R-LD/ARP Zoning District)
July 30 August 6 3302224

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2015-00005, to formalize an existing dwelling unit in a detached accessory structure as a Converted Dwelling, for a total of three units, under Section 3.3241 of the Zoning Bylaw, subject to conditions

Mark Parent – Yes Carolyn Holstein – Yes Pari Riahi – Yes

DECISION: APPROVED with conditions

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Lynne Chase & James Maloney

Address 427 Belchertown Road

City or Town Amherst, MA 01002

Identify Land Affected: 427 Belchertown Road
(Map 18A, Parcel 28, R-N/PURD Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

427 Belchertown Road Amherst
Street City or Town

The record of title standing in the name of
James Maloney and Lynne Chase
Name of Owner

Whose address is 427 Belchertown Road Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 4756 Page 147
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2015-00005
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

(Board of Appeals) Chairman
Carolyn M. Belstein
(Board of Appeals) Clerk

_____ at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____
Register of Deeds
Notice to be recorded by Land Owner

Town of Amherst Abutter List

<i>Parcel_ID</i>	<i>Parcel_Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
18A-47	BELCHERTOWN RD	FLOWER, CAROLINE M		1 ESSEX SQUARE	ESSEX, CT 06426
18A-46	BELCHERTOWN RD	TOWN OF AMHERST		TOWN HALL	AMHERST, MA 01002
18A-43	422 BELCHERTOWN RD	GPT-RG AMHERST LLC	C/O EQR-RE TAX DEPARTMENT	PO BOX 87407	CHICAGO, IL 60680
18A-28	427 BELCHERTOWN RD	MALONEY, JAMES A JR	CHASE, LYNNE	427 BELCHERTOWN RD	AMHERST, MA 01002
18C-21	160 OLD FARM RD	HOLYOKE PROPERTY MANAGEMENT		1450 NORTHAMPTON ST	HOLYOKE, MA 01040
18A-17	STANLEY ST	TOWN OF AMHERST		TOWN HALL	AMHERST, MA 01002